

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **May 21, 2013**

RE: **Analysis Report**

Balances As Of:	<u>5/15/13</u>	<u>5/9/12</u>
<u>GSD 4% RESERVE FUND</u>	*\$18,739,246	\$12,359,151
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$54,109,178	\$41,112,057
USD	\$8,478,089	\$8,556,677
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$52,117,890	\$34,449,193

*** Assumes estimated revenues in fiscal year 2013 in the amount of \$25,514,400**

– BILL ON PUBLIC HEARING AND SECOND READING –

ORDINANCE NO. BL2013-431 (MATTHEWS) – This ordinance is the operating budget of the Metropolitan Government for the fiscal year 2013-2014. The budget filed by the mayor provides for the following proposed funding:

• General Fund of the General Services District	\$ 764,033,700
• Schools Fund of the General Services District	746,420,300
• Schools Debt Service Fund	65,296,000
• Debt Service – General Services District	<u>101,489,000</u>
TOTAL GENERAL SERVICES DISTRICT BUDGET	\$1,677,239,000
• General Fund of the Urban Services District	\$ 107,721,700
• Debt Service – Urban Services District	<u>24,696,300</u>
TOTAL URBAN SERVICES DISTRICT BUDGET	\$ 132,418,000
TOTAL OPERATING BUDGET	\$1,809,657,000

The substitute budget adopted by the council for the current fiscal year is \$1,709,493,100. The mayor’s proposed budget represents an overall increase of \$124,414,400 (5.9%).

The budget appropriates a total of \$44,842,200 from the unreserved fund balances of the primary budgetary funds. These amounts are as follows:

• General Fund of the General Services District	\$ 9,613,100
• Schools Fund of the General Services District	12,000,000
• Schools Debt Service Fund	8,000,000
• Debt Service – General Services District	5,966,900
• General Fund of the Urban Services District	5,262,200
• Debt Service – Urban Services District	4,000,000

Resolution No. R89-959 established a policy of maintaining a fund balance equal to or greater than 5% of the budget for the GSD General Fund, the USD General Fund, and the General Purpose School Fund. This requirement was expanded in 2006 by an office of management and budget (OMB) policy to include the three primary budgetary debt funds in addition to these operations funds. The mayor’s proposed budget is projected to result in the following fund balance percentages on June 30, 2014:

• General Services District General Fund	7.5%
• General Services District Debt Service Fund	9.1%
• Schools Fund of the General Services District	6.4%
• Schools Debt Service Fund	6.9%
• Urban Services District General Fund	5.4%
• Urban Services District Debt Service Fund	15.8%

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ORDINANCE NO. BL2013-431 (continued)

The property tax rates are being reduced to reflect the new certified rate following the recent county-wide reassessment. The rate for the GSD is reduced by \$0.11, from the existing \$4.04 to \$3.93. The rate for the USD is reduced by \$0.03, from \$0.62 to \$0.59. The combined rate therefore is reduced by \$0.14, from \$4.66 to \$4.52.

Even with the decrease in the rates, growth is expected to generate an increase of \$16,400,000 in property taxes over the FY13 property tax revenue.

Local option sales tax revenues are projected to be \$319,134,000 in the proposed FY14 budget, an increase of \$24,188,200 over the current budget of \$294,945,800.

Also included would be an increase of \$3,082,400 in the GSD General Fund and \$376,100 in the USD General Fund for a new pay plan for Metro employees. This would fund a 1.5% raise for all full-time and part-time employees. However, the effective rate during FY14 will only be 0.75% since the increases would not take effect until January 1, 2014. The freeze on increments which has been in effect for several years would continue.

The proposed budget includes \$11,000,000 of reductions in the general fund and subsidized accounts. These reductions are offset by \$11,767,700 of other departmental budget increases. Operating subsidies are being eliminated for the Farmers' Market, Municipal Auditorium, and the State Fair Board. The budget does include continued funding for the Farmers' Market lease payment. Given the recent financial performance of the Farmers' Market and Fairgrounds, these two departments will most likely need a supplemental appropriation at some point during the next fiscal year.

There is a subsidy of \$38,690,700 for the Hospital Authority in the proposed budget, which is a reduction of \$8,792,400 from the subsidy for fiscal year 2013 (including the supplemental appropriation of \$4,292,400 made during FY13). Although the total dollar amount is lower, the FY13 subsidy included \$7,331,212 for the final repayment of outstanding debt due to Metro for capital projects. The remaining \$35,859,488 was provided for their operating budget. Thus, the proposed FY14 subsidy represents an increase of \$2,831,212 over that amount.

Other increases in the proposed budget include the following:

- MTA (University Connector, Murfreesboro Rd. BRT, fuel, materials) \$4,000,000
- Police (Madison Precinct, crime lab, aviation, special events) 2,800,000
- General Services (New buildings, contract increases, fleet) 2,469,300
- Public Works (NES and contract increases, bicycle coordinator, horticulture) 1,459,900
- Sheriff's Office (Staffing, contract increases, courthouse security) 1,069,100
- Parks (Grass mowing, staffing for Sevier and Paradise Ridge Comm. Centers) 878,400
- Information Technology (Licensing, public wireless, security tools) 634,500
- Public Defender (Various improvements) 512,900
- Public Library (Open Main Library on Mondays) 469,700
- Fire (Special events overtime, telecommunications, uniforms) 370,000
- Emergency Communications Center (5 FTEs) 309,500
- Mayor's Office (Funding new "Office of Innovation") 250,000
- District Attorney (Salary equalization) 238,000
- Health (3 FTEs for Animal Control) 150,000
- County Clerk (Security and new positions for increased demand) 118,000
- Planning Commission (General Plan update) 100,000

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ORDINANCE NO. BL2013-431 (continued)

The proposed budget includes the same mechanism for appropriating grants to non-profit organizations as the previous five budgets. In addition to the three categories included in these earlier years for this Community Enhancement Fund, a new category for Literacy is being added. This will result in a proposed \$350,000 increase in the budget appropriation for FY14. In addition to a small number of direct contributions to non-profit agencies, the proposed budget for fiscal year 2014 would award funds to other agencies that best meet the priorities of the city from four categories. They are as follows:

Also included in the proposed budget is \$1,000,000 for a new Small Business Incentive Program. \$500,000 would be used to fund grants for certain small businesses that meet the criteria for job creation in Davidson County. The other \$500,000 would be used to fund grants for developers who invest in blighted property for the purpose of stabilizing the value of the neighborhood and increasing the value of the facilities being constructed or rehabilitated on blighted property.

The mayor's proposed operating budget for Metro Public Schools is \$746,420,300. This is an increase of \$26,000,000 over the fiscal year 2013 budget, but is \$22,000,000 less than the full amount requested by the school board. There is also a separate line item in the ordinance appropriating \$290,500 for administrative support for Metro schools, down from \$373,600 in the current budget. In addition, \$1,159,600 is included in the ordinance for the Nashville After School Alliance Initiative, up from \$950,300 in the current budget.

The undesignated fund balance of the Schools General Purpose Fund is projected to be \$47,400,000 at the end of fiscal year 2014, or 6.4% of the operational budget. According to state law, funds cannot be appropriated from the schools fund balance if such appropriation would cause the balance to drop below 3%.

The budget ordinance is amendable on third reading.

– RESOLUTIONS –

RESOLUTION NO. RS2012-522 (DUVALL, MATTHEWS & OTHERS) – This resolution authorizes the director of public property administration to exercise options to purchase two adjacent parcels of property located at 3132 and 3142 Smith Springs Road for the benefit of the board of education. The first parcel is 12.59 acres in size and the second is 12.6. The value listed on the Metro property assessor’s website for the 12.59 acre parcel is \$312,400. The 12.6 acre parcel was appraised by the property assessor at \$329,000. An outside appraisal obtained by Metro lists the values at \$545,000 and \$543,000, respectively. Metro has obtained an option to purchase these two parcels from Johnny A. Coleman, Jr., for a total amount of \$1,200,000, which is approximately 9% higher than the \$1,088,000 combined appraised value.

Pursuant to the Metropolitan Code, the director of public property administration is authorized to negotiate for the purchase of property for public purposes and to seek to obtain an option to purchase from the owner, which is subject to approval of the council by resolution.

This resolution has been approved by the board of education and by the planning commission, although the planning commission staff expressed some concerns regarding the suitability of this property as a school site due to the property’s location on a dead end street. The planning commission approval letter notes that the location would provide a limited opportunity for children to walk to school and for community access to the site.

Metro had 120 days from October 15, 2012 to exercise the options. Since the options have now expired, the resolution should be amended to incorporate extensions of the options prior to voting on the resolution.

RESOLUTION NO. RS2013-670 (MATTHEWS) – This resolution establishes the certified tax rate of the Metropolitan Government. State law requires that once the county reappraisal program is completed, a tax rate be set that will result in the same amount of revenue that was received in the previous year based on the old assessment values and tax levy, as a government may not realize greater revenue by means of the reappraisal program. The purpose of the reappraisal program is to ensure that property assessments are “equalized” by having all property appraised at the same time. The present certified tax rate for the GSD is \$4.04 per \$100 of assessed value and \$0.62 for the USD, for a total combined rate in the USD of \$4.66. The new certified tax rate to be approved by this resolution will be lowered to \$3.93 in the GSD and \$0.59 in the USD, for a combined rate of \$4.52. The certified rate must be approved by the state before approval at the local level, so this rate may be modified slightly before being finally adopted.

This resolution should be deferred to track with the operating budget ordinance and tax levy.

RESOLUTION NO. RS2013-672 (MATTHEWS) – This resolution approves an agreement with the convention center authority for heating and cooling the new Music City Center (MCC). The Metropolitan Government owns a steam and chilled water energy generating facility known as the district energy system (DES) that provides heat and cooling to a number of downtown buildings, including buildings owned and used by Metro. The DES facility took the place of the decommissioned thermal plant. The funding for the construction of the \$66.7 million DES system was approved by the council in 2002.

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RESOLUTION NO. RS2013-672 (continued)

Metro provides an annual subsidy to DES to cover the debt deficit and the unsold capacity of the facility. The fiscal year 2013 operating budget included \$2,315,700 as Metro's subsidy for DES. The new MCC was designed and engineered to be compatible with the DES system. Having the MCC as a DES customer should significantly reduce Metro's subsidy in the future. The mayor's proposed fiscal year 2014 budget includes \$1,958,300 for the DES subsidy.

This resolution approves a DES service agreement with the MCC for a term of 30 years. During the first year, the MCC will be paying a steam annual charge of \$175,364, a chilled water annual charge of \$445,449, a steam fixed operating charge of \$36,527, and a chilled water service fixed operating charge of \$75,986, for a total charge of \$733,326. This amount is to be adjusted annually based upon the percentage change in the consumer price index. In addition, the MCC will pay an energy charge representing the actual natural gas costs paid by DES for the service, as well as other pass through charges, estimated to be \$1,738,554 for fiscal year 2014. This brings the total fiscal year 2014 MCC budget for DES heating and cooling services to \$2,471,880.

The 2002 DES ordinance provides that customer agreements are to be approved by resolution.

RESOLUTION NO. RS2013-693 (MATTHEWS & PARDUE) – This resolution approves agreements with the cities of Belle Meade, Berry Hill, Forest Hills, Goodlettsville, and Oak Hill ("satellite cities") pertaining to the performance of municipal functions. These agreements were negotiated in response to legislation that was pending before the Tennessee General Assembly earlier this year that would have allowed satellite cities to perform any municipal function they so desired, regardless of contrary limitations in the Metro charter. When the Metro charter was approved in 1962, the voters decided to preserve the existence of the satellite cities and allow them to continue to provide the services they were providing at the time. The charter provides that the Metropolitan Government is to provide the same level of service to the satellite cities as those provided to other areas outside of the urban services district. Metro may take into consideration state aid and other tax revenues the satellite cities receive that are available to provide any of these services. The charter also provides that the satellite cities may contract with Metro for the administration and handling of any of its governmental functions.

This resolution approves identical agreements with four of the cities, and a slightly modified agreement with Goodlettsville. A number of the services specified in the agreements are already being provided by the satellite cities, and the agreement will not affect such existing services. The terms of the agreements are for four years, which will renew automatically without further action unless terminated by either party, or unless the General Assembly enacts legislation similar to that considered earlier this year regarding municipal services.

The key provisions of the agreements are as follows:

- Each satellite city will have the authority to establish a municipal court to enforce its ordinances and appoint an administrative hearing officer. The municipal court function was the subject matter of a lawsuit between Forest Hills and Metro in which Metro prevailed at the trial court level. Goodlettsville already had a municipal court in place when Metro was formed, and will have the authority to continue operating the court.

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RESOLUTION NO. RS2013-693 (continued)

- The cities may provide police substations for Metro police officers to use as needed. The agreements provide that Metro will consider amending the code to provide a reduced rate for the satellite cities to use off-duty Metro police officers to enhance patrols. The cities of Berry Hill, Belle Meade, and Goodlettsville have their own police departments that were in place at the time Metro was formed.
- Goodlettsville has always had a fire department, and the agreement recognizes such. Metro will continue to honor all contracts with Goodlettsville for EMS services.
- The agreements provide that Metro will not be responsible for the maintenance of any of the roads within the satellite cities, and will not be liable for unsafe or defective conditions of the roads, unless Metro contracts to do so.
- The satellite cities will have the authority to continue to provide parks and will be responsible for the maintenance of such parks.
- The satellite cities may continue to adopt and enforce their own electrical, building, plumbing, mechanical, and housing codes, provided such codes are not less stringent than the corresponding Metro codes.
- The cities may administer their own stormwater program or opt in to Metro’s stormwater program at the same rates other Metro residents and businesses pay. Goodlettsville provides its own stormwater and sewer services, and may continue to do so.
- The satellite cities may provide chipper service and waste collection/recycling services to their residents.
- The cities may issue their own business licenses, which would be in addition to the business licenses issued by Metro under state law. Metro also agrees to remit wholesale beer taxes attributed to sales from establishments within a satellite city.
- Metro agrees to give the satellite cities their proportionate share of franchise fees based upon the population of each city. Metro collects various franchise fees from utilities for their use of the public right-of-way. These funds will now be divided with the satellite cities. Goodlettsville already has its own franchise agreements with public utilities, but will still be entitled to its proportionate share of the Metro franchise fees. For the fiscal year beginning July 1, 2013, Metro will remit 60% of the proportionate share of franchise fees and keep the remaining 40%. For fiscal year 2014-2015, Metro will remit 80% of the franchise fees. From and after July 1, 2015, Metro will remit 100% of such franchise fees. Based upon the current population figures and the projected franchise fees for FY14, the finance department estimates Metro would pay the satellite cities the following amounts under the agreements:

<u>Belle Meade</u>		
FY14	60%	\$47,207
FY15	80%	\$62,942
After 2015	100%	\$78,678

<u>Berry Hill</u>		
FY14	60%	\$8,705
FY15	80%	\$11,607
After 2015	100%	\$14,509

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RESOLUTION NO. RS2013-693 (continued)

<u>Forest Hills</u>		
FY2014	60%	\$78,008
FY2015	80%	\$104,011
After 2015	100%	\$130,013

<u>Goodlettsville</u>		
FY2014	60%	\$167,283
FY2015	80%	\$223,043
After 2015	100%	\$278,804

<u>Oak Hill</u>		
FY2014	60%	\$73,420
FY2015	80%	\$97,894
After 2015	100%	\$122,367

<u>Total Impact to Metro</u>		
FY2014	60%	\$374,623
FY2015	80%	\$499,497
After 2015	100%	\$624,371

In the event a dispute arises regarding the terms of the agreements, the parties agree to first go to nonbinding mediation before pursuing judicial redress.

RESOLUTION NO. RS2013-694 (GILMORE & STEINE) – This resolution appropriates up to \$550,000 in community development block grant (CDBG) funds for improvements at Edmonson Park located at 1642 Charlotte Avenue. CDBG funds are designated by federal law to be used for affordable housing activities and for neighborhood community improvement projects. These funds will be used to transform this open space into a public park to be known as Edmonson Park. MDHA has collaborated with the Metro arts commission, the Oasis Center, and other entities to create a park on the property that incorporates public art, walking paths, and play areas to pay tribute to the area’s cultural and historical significance. Plans for these improvements are available for review at the offices of the Metropolitan development and housing agency.

RESOLUTION NO. RS2013-695 (GILMORE, STEINE & MATTHEWS) - This resolution approves an application for a grant in the amount of \$25,000 from the National Endowment for the Arts to the Metropolitan arts commission for public art within Edmonson Park and a companion educational curriculum. The purpose of the public art project and educational component is to recognize the history and culture of the area and the artist William Edmonson. This project would be in conjunction with MDHA, the Oasis Center, Metro parks, and Lipscomb University. If this grant is awarded, there would be a required local cash match of \$44,245 to be provided from public art funds plus an in-kind match of \$14,400.

RESOLUTION NO. RS2013-696 (MATTHEWS, BENNETT & LANGSTER) – This resolution approves an application for a renewal of a grant from the state department of correction to the state trial courts to fund the Davidson County community corrections program. This program provides alternative punishments for non-violent offenders consisting of offender supervision, residential programs, and day reporting center programs. The trial courts are seeking \$1,451,003 from the state to fund the community corrections program for fiscal year 2014.

RESOLUTION NO. RS2013-697 (MATTHEWS, BENNETT & LANGSTER) – This resolution approves a grant in the amount of \$28,193.26 from the U.S. department of justice to the Metropolitan Government for the purchase of bulletproof vests for the police department and sheriff's office. There is a required local match of \$14,096.63 for this grant.

RESOLUTION NO. RS2013-698 (MATTHEWS, CLAIBORNE & BENNETT) – This resolution approves a second amendment to a lease agreement between the Metropolitan Government and Greensboro I, L.P. for the police department's domestic violence program. The original lease was approved by the council in 2005 for 7,200 square feet of office space located at 804 Second Avenue North. The lease was amended in 2011 to add auxiliary parking spaces and extend the term for another five years.

As a result of an ambiguity in the existing lease agreement regarding the method for calculating utility costs, a dispute exists between the parties as to how much the police department should have been paying in utilities since 2007. Greensboro claims that Metro owes \$63,596.97 over this time period for utility costs that were not included as part of the base rent. Greensboro has agreed to settle the dispute for a one time lump sum payment of \$10,932.04 if the lease is amended to make Metro responsible for the actual utility costs. This lease amendment will reduce the rent for the premises by \$1,000 per month, but Metro will be paying the actual utility costs, which averaged \$1,922.22 per month in 2012. The reason for the high utility cost is the fact that the facility operates 24-hours a day.

This lease amendment has been approved by the planning commission.

RESOLUTION NO. RS2013-699 (MATTHEWS & CLAIBORNE) – This resolution approves a continuation grant in the amount of \$20,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan historical commission to perform environmental review required by federal law for development proposals using federal funds to determine potential adverse effects to historic properties. MDHA is responsible for administering certain federal grant programs that require compliance with the National Environmental Policy Act, part of which requires a review under the National Historic Preservation Act to identify historic properties potentially affected by developments using the federal funds.

MDHA has contracted with the Metropolitan historical commission to review MDHA proposals and identify historic properties potentially affected by each proposal. The term of this grant is from April 1, 2013, through March 31, 2014.

RESOLUTION NO. RS2013-700 (WEINER, BENNETT & MATTHEWS) – This resolution ratifies the Metro animal control fee schedule approved by the board of health. The Metro code requires owners of dogs that are impounded to pay a fee to offset Metro’s expenses. Such fees are to be approved by the board of health and ratified by resolution of the council. A copy of the fee schedule to be approved by this resolution is attached to this analysis.

This resolution is a companion to Ordinance No. BL2013-447 on second reading. The primary changes to the fee schedule are the increase of license fee from \$4 to \$6 and the addition of a provision included in BL2013-447 that allows the department to discount or waive the impound and boarding fees when the dog has been impounded through no fault of the owner. The license fee increase will allow the health department to hire three additional animal control officers.

This resolution should be deferred to track with Ordinance No. BL2013-447.

RESOLUTION NO. RS2013-701 (WEINER & MATTHEWS) – This resolution approves an agreement between the Metro board of health and Matthews Memorial United Methodist Church to provide a location where current and potential women, infants, and children (WIC) participants can attend classes. The health department has negotiated agreements with several community organizations and churches to provide space for these classes. The church, located at 300 Anderson Lane in Madison, has agreed to make classroom space available to the health department for a two hour period twice a month. There is no cost to the health department for the use of this space. The term of the agreement is for one year, but may be renewed for four additional one year periods.

RESOLUTION NO. RS2013-702 (WEINER, MATTHEWS & LANGSTER) – This resolution approves a grant in the amount of \$23,409.74 from The Key Alliance to the homelessness commission (through Metro social services) to provide housing for chronically homeless persons. The homelessness commission was formerly housed at the Metropolitan development and housing agency (MDHA) before being transferred back to the department of social services. While at MDHA, the Key Alliance was created as a nonprofit entity in order to solicit private funds for the homelessness commission. These grant funds would be used as part of a community-wide housing initiative to house chronically homeless individuals and families.

RESOLUTION NO. RS2013-703 (MOORE, GILMORE & MATTHEWS) – This resolution approves an amendment to the current lease agreement between the Metropolitan Government and MFP Baseball, LLC (“MFP”) for lease of the Greer Stadium site for use by the Nashville Sounds minor league baseball team. Greer Stadium has been leased by Metro to the Sounds since 1977. The council approved the most recent lease agreement with the current Sounds ownership in 2008 for a five year term with a possible extension of five additional years.

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RESOLUTION NO. RS2013-703 (continued)

The parties have negotiated an extension of the lease for another three years essentially under the same terms as the existing lease. Under the present lease, Metro has reimbursed MFP \$250,000 per year for capital expenditures. The lease required MFP to spend at least \$250,000 in order to receive this amount from Metro. Under the amended agreement, Metro will reimburse 50% of MFP's capital expenditures up to a maximum of \$250,000 per year. The rent for the facility will continue to be calculated based upon the financial performance of the team. However, the existing lease included a provision allowing MFP to deduct its stadium repair expenses from the rent amount. MFP has spent in excess of \$2,000,000 over the five year term on repairs, replacements, and capital improvements at the facility.

MFP agrees to use commercially reasonable efforts to keep the stadium up to the levels required by the Pacific Coast League and the National Association of Professional Baseball Leagues, as well be in compliance with all applicable laws. However, MFP will not be required to make any capital improvement to the stadium that would have a useful life of more than the three year lease term unless the improvement is required by applicable law.

All other provisions of the existing lease will remain in full force and effect during the extended term.

RESOLUTION NO. RS2013-704 (MATTHEWS) – This resolution approves an amendment to a contract with Red River Service Corporation for the collection of solid waste. Red River was awarded a ten year contract in 2004 to collect garbage within certain designated service areas of the urban services district. Metro and Red River desire to extend the term of the contract, reduce the curbside unit collection price, and delete the age limitation on vehicles used by Red River.

This amendment would reduce the existing unit price of the semi and fully automated services by twenty cents per unit to \$5.14 for automated and \$7.10 for semi-automated. The amendment also exercises Metro's right under the contract to extend the initial term of the contract for an additional ten years through November 30, 2024. Further, the amendment eliminates the requirements that trucks be taken out of service after they reach seven years of age. This would give Red River the discretion to determine when trucks should be taken out of service. Finally, the amendment provides that if Metro decides to expand the service areas covered by Red River, then the price per unit for collection in such areas will be governed by the existing pricing provisions for the original service areas.

The Metropolitan Code provides that all contracts related to solid waste collection and disposal in excess of \$500,000 must be approved by resolution of the council receiving at least 21 affirmative votes.

RESOLUTION NO. RS2013-705 (MATTHEWS) – This resolution authorizes the department of law to compromise and settle the personal injury claim of Vernice Bryan against the Metropolitan Government in the amount of \$38,936. On July 15, 2011, Ms. Bryan tripped over some cables and wires at Belle Meade United Methodist Church while entering the voting booth during early voting. The cables and wires were not affixed to the floor as they should have been. Ms. Bryan suffered a fractured pelvis and clavicle, requiring a convalescence period of three months and resulting in medical bills totaling \$12,978.50.

As a result of the election commission staff's negligence in failing to maintain a safe voting site, the department of law recommends settling this claim for the amount of medical bills plus \$25,957.50 for pain and suffering. This amount is to be paid out of the self-insured liability fund. No disciplinary action was taken against any election commission employees.

RESOLUTION NO. RS2013-706 (MATTHEWS) – This resolution authorizes the department of law to compromise and settle the personal injury claim of Ronald Flenoy against the Metropolitan Government in the amount of \$50,000. On July 24, 2009, a Nashville fire department employee was driving a ladder truck on Jefferson Street en route to a fire alarm call. In an effort to avoid backed up traffic at the Rosa L. Parks Boulevard intersection, the fire truck driver turned into a gas station parking lot and attempted to drive the truck between two gas pumps. The fire truck had the emergency lights operating, but not the siren. Mr. Flenoy was standing next to his car with the door open at the gas pump when the fire truck made contact with his vehicle, mashing him between the door and his vehicle. Mr. Flenoy sustained a hand laceration, broken hand, and pain in his neck, back, and abdomen. He has been assigned a 5% impairment to his hand and a 3% impairment to the body as a whole. Mr. Flenoy's medical expenses total \$32,453.29.

The department of law recommends settling this claim for \$50,000 since a court would likely find the fire truck driver at fault for attempting to cut through the gas station parking lot to avoid traffic, which is a violation of the Metro Code. Since the fire truck did not have the siren engaged, the exception under state law for emergency vehicles to disregard traffic laws would not apply. Further, the fire truck driver had a duty to operate the vehicle in a safe manner and there is no specific law allowing emergency vehicles to drive through private parking lots for purposes of avoiding traffic.

This amount is to be paid out of the self-insured liability fund. No disciplinary action was taken against the fire truck driver.

RESOLUTION NO. RS2013-707 (MATTHEWS) – This resolution authorizes the department of law accept \$16,666.66 to compromise and settle the Metropolitan Government's claim against Christina Yates. On December 14, 2011, Ms. Yates was making a left turn from Murfreesboro Pike onto Town Park Drive when she struck a Metro police car. The police officer sustained an injury to her neck, which ultimately required corrective surgery. The total injury-on-duty amount paid by Metro was \$40,217.08. However, since Ms. Yates policy limits are only \$50,000, the department of law recommends settling the claim for \$16,666.66 so that the remainder of the policy limits can go directly to the police officer under the Tennessee law principle known as the "made-whole doctrine".

RESOLUTION NO. RS2013-708 (A. DAVIS) – This resolution approves the election of notaries public pursuant to state law.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2012-291 (STANLEY) – This ordinance amends the Metro zoning code to provide that the conversion of material into a fuel product or asphalt is not a permitted function as part of a recycling facility, and to prohibit such activity on construction/demolition (C&D) landfill property. The zoning code permits recycling facilities with conditions in the industrial (IWD, IR, and IG) zoning districts. C&D landfills are permitted with conditions in the intensive commercial and industrial districts, and are permitted as a special exception use in the agricultural and the intensive mixed use districts. The zoning code does not specifically address the conversion of material into a fuel product, but this type of activity would likely be considered as a heavy manufacturing use, which is only permitted in the IG zoning district. So, the zoning administrator would sign off on this type manufacturing activity in conjunction with the operation of a C&D landfill or recycling facility only if it was located in the more intensive IG zoning district.

This ordinance would expressly prohibit the conversion of construction debris, biomass, or other material (such as roofing shingles) into a fuel product or asphalt through an incineration process at a recycling facility or in conjunction with a C&D landfill, regardless of the zoning district the facility was located in.

The department of public works submitted a letter to the planning commission in opposition to this ordinance since a C&D landfill would not be permitted to have an incinerator under the state regulations, anyway. The public works letter further asserts that the bill would not be consistent with the Davidson County regional solid waste plan recommendations pertaining to recycling activity.

There is a proposed amendment to this ordinance that would provide that the conversion, transformation, or reduction of material into a liquid substance that is to be used, re-used, or refined on-site or off-site would only be considered as a permissible recycling activity when it is conducted on property zoned Industrial General (IG)

This ordinance has been disapproved by the planning commission.

ORDINANCE NO. BL2013-360 (BANKS, MATTHEWS & EVANS) – This ordinance amends the Metro code to direct the department of human resources to conduct a compensation and benefits study for the mayor, vice mayor, and members of council. The salaries for these positions were last modified in 2003 at the conclusion of a compensation study conducted by an outside consultant that was retained by the department of human resources.

The study to be conducted by this ordinance would include an examination of the salaries and benefits of the mayor, vice mayor, and members of council compared to equivalent positions in comparable cities. The consultant is also to make recommendations regarding modifications in salaries and benefits taking into account the duties of the positions, the size of local legislative bodies in comparable cities, and whether members of the local legislative body serve on a part-time or full-time basis. The study is also to take into account the long term costs of providing benefits and the future impact the Metro charter term limits provision will likely have on such costs.

The mayor's fiscal year 2014 operating budget includes \$200,000 for a compensation study for all Metro employees. This ordinance would simply piggyback onto the proposed Metro-wide compensation study.

ORDINANCE NO. BL2013-420 (MAYNARD, TYGARD & OTHERS) – This ordinance amends the Metro code to create a small business economic development incentive grant program. Over the past several years, the council has approved various economic development incentive packages for a number of larger businesses in the area to encourage the creation of new jobs in Davidson County and/or to prevent businesses from leaving Davidson County. This ordinance is a collaborative effort between Members of Council and the administration to provide a mechanism for smaller businesses to obtain economic development incentives.

This ordinance would create two pilot incentive grant programs for small businesses. The first program is similar to the existing program that provides financial incentives to large companies in the form of a \$500 grant per job created in the county. The existing program is limited to corporate headquarter relocations and large technology companies that create a minimum of 500 new jobs over a five year period. This ordinance would create a new category of incentive that would provide \$500 per new job (\$750 for veterans of the Armed-Forces) for companies that have fewer than 100 total employees and create at least 20 new full-time jobs in Davidson County within a one year period. Such jobs must pay a salary that is at least as much as the annual wage rate average for all occupations within Nashville’s metropolitan statistical area, as published by the U.S. department of labor. The incentive would not be available to certain types of businesses such as retail, restaurants, nightclubs, cash advance, check cashing, title loan, pawnshops, adult entertainment, and automotive-related businesses. There would be a maximum annual payment of \$50,000 for a single company. The grants would be made by Metro to the industrial development board (IDB), who in turn would grant the funds to the qualifying companies on a first-come-first-served basis. In conjunction with the IDB, the mayor’s office of economic and community development would be responsible for administering the grant program.

The second small business economic development incentive program would provide cash grants to businesses that invest in blighted areas. This program is modeled after state legislation enacted last year that allows local governments to make grants directly to developers who invest in blighted property “to encourage the repair, rebuilding and renovations of existing facilities and structures in neighborhoods whose stability depends upon the elimination of blight and the upgrading of structural needs of a facility.” These grants could only be used for the purpose of constructing or rehabilitating the exterior portions of commercial property located within a redevelopment district approved by the council. The value of the property could not exceed \$1,000,000 at the time the grant application is made in order for a business to be eligible to receive the funds. The amount of the grant would be ten percent of the documented investment of the business to fix up the property up to a maximum grant amount of \$50,000. This grant program would be managed by the mayor’s office of economic and community development, and the grants would be awarded on a first-come-first-served basis.

Both grant programs are specifically conditioned upon the appropriation of funding by the council through the operating budget. The mayor’s proposed fiscal year 2014 operating budget includes a combined \$1,000,000 for these two programs.

ORDINANCE NO. BL2013-421 (PARDUE) – This ordinance amends the Metro code provisions applicable to open burning. The code currently contains two conflicting requirements pertaining to open burning. One section provides that the fire marshal shall determine when conditions are acceptable to allow open and recreational burning. Using this authority, the fire marshal has determined that open burning is rarely appropriate. However, another section of the code purportedly allows open burning on residential property. That section, included under the air pollution chapter, provides that fires in the urban services district used for disposing of leaves, yard clippings, and small tree limbs grown on single-family or two-family property are permitted without approval of the director of health, provided the property owner has notified the public works department to pick up such material and it has not been picked up within 30 days. There is no such notice requirement and waiting period for residential property outside of the urban services district. This code section provides that burning under certain other circumstances may be approved by the director of health.

This ordinance, which has been filed at the request of the fire marshal, deletes the above-referenced provisions in the code that allow the open burning of leaves and brush on single and two-family residential property. The ordinance also adds a requirement that a permit be obtained from the fire marshal, in addition to other required permits from the health department, for all other open burning.

ORDINANCE NO. BL2013-422 (MOORE) – This ordinance amends the Metro code to modify the procedure to be followed in designating residential permit parking areas. The residential permit parking (RPP) program has been a part of the Metro code since 1993, and was last amended in 1999. This program allows residents in urban areas to petition to have their streets designated as residential permit parking only during certain times. The purpose of this program is to help facilitate parking for residents who live in close proximity to commercial establishments or sports/entertainment venues. The code provides that a petition requesting residential permit parking signed by 75% of the residents within a geographic area may be submitted to the district councilmember. The petition must include a clear description of the geographic area and the times of day during which residential parking is requested. The code provides that the district councilmember “shall then submit the petition, with a written recommendation, to the chief traffic engineer for review by staff of the traffic and parking commission.” The chief traffic engineer then recommends to the traffic and parking commission whether the area should be designated as a RPP area. Once so designated, residents can obtain an annual permit to park within the RPP area.

This ordinance would give the district councilmember more of a role in the residential permit parking designation process. The ordinance adds a requirement that the chief traffic engineer give the district councilmember at least 30 days written notice prior to placing the matter on a traffic and parking commission agenda. The ordinance also includes provisions whereby a resident or business located within the designated area could appeal the traffic and parking commission’s decision to designate the area as a RPP area in the event of an alleged procedural violation or if the decision was arbitrary or capricious. Such decision must be appealed within 60 days to the circuit or chancery court. Board and commission decisions are appealable in this manner as a matter of right by common law writ of certiorari. This would simply add a provision in the code to that effect. The ordinance also provides that no signs designating the area as a RPP area could be erected until the 60 day appeal period has lapsed.

This ordinance has been referred to the traffic and parking commission.

ORDINANCE NO. BL2013-423 (MOORE, GILMORE & CLAIBORNE) – This ordinance approves an agreement with the state for an exchange of the old Ben West library property for the Tennessee Preparatory School (TPS) property. The 0.38-acre Ben West library property located at Eighth Avenue and Union Street was donated to the Carnegie Library of Nashville in 1902 by J. Craig McClanahan and his wife, Katherine B. McClanahan. The Carnegie Library of Nashville was a nonprofit corporation created to build a downtown library as a result of a \$100,000 donation from Andrew Carnegie. The property was deeded to the City of Nashville in 1959, and served as the site of the main public library until June 2001. A small collection of books was kept in the basement of the building from mid-2003 through September 2006 while it served as the temporary City Hall during the renovation of the courthouse. The building has not been used since 2006.

Metro has been leasing a portion of the TPS property located at 1250 Foster Avenue for the Nashville School of the Arts magnet high school since 2003. The lease was recently amended to add the old TPS high school building for the purpose of subleasing it to STEM Preparatory Academy charter school. The total lease amount to be paid by Metro after the addition of the building for STEM is approximately \$500,000 per year.

The state desires to evenly “swap” approximately 28 acres of the TPS campus for the Ben West library site. The state cannot engage in a property swap unless the two properties are of equal value, and the appraisers have determined that the Ben West library site is worth more as a parking lot than with the existing structure. Thus, Metro will be required to demolish the building, and pave, stripe, and landscape the property for use as a parking lot at an estimated cost to Metro of \$750,000. The agreement provides that Metro will use its best efforts to have all necessary work completed at the Ben West site within 180 days. If this property exchange is approved, Metro will be able to reduce General Services’ budget by \$248,000 since it will no longer have to secure and maintain the property.

A complicating factor in this transaction is a restriction contained in the 1902 deed requiring the property to be used for a library. Specifically, the deed states that the right of title in the property will cease and the property will revert to the heirs of the grantor in the event Carnegie Library or its successors in ownership “fail to maintain perpetually upon said property a free public library for the use of the people of Nashville.” The department of law believes Metro has a valid defense that the reversionary clause is no longer applicable for two reasons. First, the intent of the restriction was to ensure that there was a downtown library, and the old Ben West library has been replaced with a much larger and nicer downtown library facility a block away. Thus, it can be argued that Metro complied with the spirit of the donation. Second, an adverse possession defense could be made since the property has not really been used as a public library since 2001. Under state law, if property is adversely possessed for seven years without the true owner making a claim or seeking to oust the possessor, the possessor can prevent the owner from recovering the property. The state would be the party to defend such an action if a claim was made after the transfer of the property.

While the agreement does not specifically mention this deed restriction, the agreement includes a provision allowing the state to “repurchase” the TPS property for one dollar at any time prior to November 1, 2026. This would protect the state in the event a claim was made by the heirs of the McClanahan’s and they were successful in obtaining the Ben West property. If the state exercised its right to have the ownership of the TPS property back to the state, Metro would have the right under the agreement to lease the property for 20 years at fair market value rent.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2013-432 (MATTHEWS) – This ordinance adopts the property tax levy for the fiscal year 2013-2014. The Metropolitan Charter requires that the council’s next order of business upon adopting the annual operating budget is to adopt a tax levy that fully funds the operating budget. The property tax proposed by the mayor is \$3.93 per \$100 assessed value in the general services district (GSD) and an additional \$0.59 per \$100 assessed value in the urban services district (USD), for a total tax of \$4.52 in the USD. This is a reduction of \$0.11 in the GSD rate and a reduction of \$0.03 in the USD rate as a result of county-wide property reappraisal required by state law. Local governments are prohibited by state law from realizing greater revenue by means of the reappraisal program.

Resolution No. RS2013-670 establishes these rates as the certified tax rate of the Metropolitan Government.

ORDINANCE NO. BL2013-434 (WEINER, MATTHEWS & ALLEN) – This ordinance approves a clinical affiliation agreement between the Davidson County drug court and Vanderbilt University to provide student clinical instruction and training to nursing students. Students will not receive any compensation and there is no cost to the Metropolitan Government for providing this service. The term of the agreement is for five years, but may be terminated by either party upon 30 days written notice. Vanderbilt University will be required to provide assurance that the students are covered by health and professional liability insurance and that they have received the necessary vaccinations. Vanderbilt agrees to assume responsibility for all of its students participating in the program. Metro is a participant in similar clinical experience programs through the Metro health department and the community corrections program.

ORDINANCE NO. BL2013-435 (BENNETT, CLAIBORNE & OTHERS) – This ordinance approves a lease agreement between the Metropolitan board of public education (MNPS) and Liberty Collegiate Academy for use of the former Jere Baxter school located at 3515 Gallatin Road. This school building, consisting of 35,158 square feet, is no longer being used by MNPS. The old cafeteria basement area of the school is not included as part of the leased premises. Liberty Collegiate Academy is a charter school that currently serves fifth and sixth grades, but will be adding seventh and eighth grades over the next two years. The term of the lease is from July 1, 2013 through June 30, 2023, but Liberty Collegiate is to be allowed access June 1 to begin renovations. Liberty Collegiate will have the ability to terminate the lease at any time with 60 days written notice.

The rent for the premises is calculated at an annual rate of \$4.82 per square foot, which is to increase by two percent each year. This equates to a monthly rental payment in the first year of \$14,121.80. The rent includes grounds maintenance and utilities, but does not include security and janitorial services. Liberty Collegiate will receive a rent credit for tenant improvements up to \$2.50 per square foot. MNPS will be responsible for major capital repairs to the roof, structure, and HVAC system, but Liberty Collegiate will be responsible for routine maintenance of the facility. Liberty Collegiate will be allowed to place modular classrooms on the premises. The lease includes standard indemnification provisions and a general commercial liability insurance requirement of \$1 million per occurrence.

Future amendments to the agreement may be approved by the council by resolution. This lease agreement has been approved by the planning commission.

ORDINANCE NO. BL2013-436 (BAKER, BEDNE & OTHERS) – This ordinance approves a lease agreement between the Metropolitan board of public education (MNPS) and Nashville Preparatory Academy for use of the McCann School property located at 1300 - 56th Avenue North. MNPS has no current need for this 26,695 square-foot school building. Nashville Prep is a charter school focused on preparing students for college. The term of the lease is from July 1, 2013 through June 30, 2023, but Nashville Prep is to be allowed access June 1 to begin renovations. The school will have the ability to terminate the lease at any time with 60 days written notice.

The rent for the premises is calculated at an annual rate of \$5.00 per square foot, which is to increase by two percent each year. This equates to a monthly rental payment in the first year of \$11,122.92. The rent includes grounds maintenance, security, utilities, and attendance services. Nashville Prep will receive a rent credit in the amount of 50% of rent otherwise owed for tenant improvements. MNPS will be responsible for major capital repairs to the roof, structure, and HVAC system, but Nashville Prep will be responsible for routine maintenance of the facility. The school will be allowed to place modular classrooms on the premises. The lease includes standard indemnification provisions and a general commercial liability insurance requirement of \$1 million per occurrence.

Future amendments to the agreement may be approved by the council by resolution. This lease agreement has been approved by the planning commission.

ORDINANCE NOS. BL2013-437 THROUGH BL2013-439 – These three ordinances abandon portions of public rights-of-way that are no longer needed by the Metropolitan Government. The ordinances retain all existing utility easements. Petitions evidencing the consent of the affected property owners are included as an attachment to the ordinances.

These ordinances have been approved by the planning commission and traffic and parking commission.

Ordinance No. BL2013-437 (Langster) abandons a portion of Alley No. 902 from Clifton Avenue to Alley No. 925 behind the sidewalk adjacent to 21st Avenue North. This closure has been requested by The Next Door, who was required to relocate as a result of the construction of the Music City Center.

Ordinance No. BL2013-438 (Moore) abandons a portion of Alley No. 428 from Wade Avenue northward to Alley No. 680. This closure has been requested by Gobble Hays Partners to facilitate the construction of the Midtown police precinct.

Ordinance No. BL2013-439 (Allen) abandons a portion of Alley No. 434 from Alley No. 628 southward to its terminus between properties located at 2008, 2010, and 2012 – 15th Ave South and 2014 Bernard Circle. This closure has been requested by Littlejohn Engineering Associates to facilitate development on the Belmont University campus.

ORDINANCE NO. BL2013-440 (CLAIBORNE & LANGSTER) – This ordinance authorizes the disposition of three parcels of property adjacent to 28th Avenue North that were previously acquired as part of the construction of the 28th Avenue Connector. Now that the 28th Avenue Connector project is complete, there is no governmental need for these parcels, which total 2.87 acres. This ordinance declares the properties to be surplus, and authorizes the disposition of the properties in accordance with the standard rules and regulations for the disposition of surplus property for the highest and best price. Although not included within the body of the ordinance, the ordinance caption and recitals indicate that the properties are to be sold to HCRI Tennessee Properties, LLC, or an affiliate thereof. The quitclaim deed attached to the ordinance provides that the purchase price for these three parcels will be \$1,353,000. According to the Davidson County property assessor’s records, these three parcels in their entirety (3.75 acres as opposed to the 2.87 acres being sold) are collectively appraised at \$3,267,000.

In April 2012, the council authorized the filing of a notice of land use restrictions with the register of deeds for a small portion of these three parcels. The property was identified as having contaminated soil, which has been remediated to the extent practicable. Prior to any invasive activity on the property and/or prior to the use of any part of the properties as a residence, daycare, school, or church, evidence must be submitted to the Tennessee Department of Environment and Conservation (TDEC) showing that the proposed action will not pose a danger to the public or to the environment. These restrictions run with the land in perpetuity unless cancelled by TDEC. Thus, the property will be sold subject to the land use restrictions. The ordinance provides that Metro will retain a public utility and drainage easement, as well as a slope easement.

The ordinance provides that the proceeds from the sale of these parcels shall be credited to the general fund. However, these properties were acquired using bond funds for the 28th Avenue Connector project. There is a proposed amendment that would correct this error by directing the funds to the fiscal year 2011 capital projects fund.

ORDINANCE NO. BL2013-441 (BAKER, LANGSTER & OTHERS) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. BL2004-176 when a portion of the 50th Avenue North right-of-way was abandoned on property located at 5001 Tennessee Avenue.

ORDINANCE NOS. BL2013-442 through BL2013-444 – These three ordinances authorize the acquisition of easements for various stormwater projects. The ordinances provide that future amendments to the ordinances may be approved by resolution. These ordinances have been approved by the planning commission.

Ordinance No. BL2013-442 (S. Davis, Bennett & others) authorizes the acquisition of easements for 41 properties for the Haynes Park and Maynor Place stormwater projects. Easements are to be acquired for properties located along Boyce Court, Charles Court, Haynes Park Drive, Kingview Drive, Iverson Avenue, and Maynor Avenue. These two stormwater projects are being funded through federal community development block grant funds.

Ordinance No. BL2013-443 (Potts & Claiborne) authorizes the acquisition of easements for four properties located at 574 and 592 Bell Road, and 5304 Bell Crest Drive.

Ordinance No. BL2013-444 (Pardue, Potts & Claiborne) authorizes the acquisition of easements for four properties located at 608, 612, 613, and 617 Sunnyslope Court.

ORDINANCE NO. BL2013-445 (MATTHEWS, CLAIBORNE & POTTS) – This ordinance abandons approximately 65 linear feet of an existing eight inch sewer main and easements and accepts one new manhole on properties located at 4001 and 4003 Clarksville Pike. Metro water services no longer has a need for this portion of sewer line. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2013-446 (A. DAVIS & STEINE) – This ordinance readopts the Metro code prepared by Municipal Code Corporation to include supplemental and replacement pages for ordinances enacted on or before January 16, 2013.

ORDINANCE NO. BL2013-452 (BENNETT & A. DAVIS) This ordinance amends the Metro code provisions governing the animal control fee schedule. The code currently sets the dog licensing fee to be charged by the board of health at \$4.00 per dog. The code also gives the health board the authority to establish fees for certain other animal control-related services, such as dog impoundment and boarding. Such fee schedule must be approved by the council by resolution before taking effect.

This ordinance makes a number of changes to the animal control fee provisions. First, the ordinance amends the code to increase the amount of the dog license fee from \$4.00 to \$6.00. This increased revenue is included in the mayor's proposed FY2013-2014 operating budget to hire three additional animal control officers. Second, the ordinance removes the specific amount of the license fee from the code to be consistent with the other fee provisions. The license fee would be part of the fee schedule adopted by the health board and submitted to the council for approval by resolution. Third, the ordinance adds language to the code that would allow the health department to reduce or waive fees where dogs are impounded and/or boarded through no fault of the owner, such as when an animal is taken to the animal control facility from the scene of a car accident in which its owner was injured. Finally, the ordinance would authorize the health department to charge a reduced adoption fee for organizations that have applied for and received certification under health department policy.

– BILL ON THIRD READING –

ORDINANCE NO. BL2013-403 (JOHNSON) – This ordinance amends the Metro zoning code to limit the amount of exterior lighting covering building roofs and/or front facades. The code currently provides that all property lighting must be shielded so that substantially all directly emitted light falls within the property line, and the illumination cannot exceed “one-half footcandle” across the boundary of any adjacent residential property or a public street. Assuming these illumination requirements are satisfied, there is nothing in the code that limits the amount of building surface area that can be covered with lights.

This ordinance would prohibit rope lighting, string lighting, or other forms of illumination from covering more than 25% of the front façade or roof area of a building for more than 30 days in any one calendar year. The 30 day limitation is essentially to ensure that holiday lights do not run afoul of the provision.

There is a proposed substitute for this ordinance prepared by the planning director that is intended to better enable the codes department to enforce the restrictions on rope lighting.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2013-408 (MOORE) – This ordinance amends the official street and alley acceptance and maintenance map by abandoning the Alley No. 1800 right-of-way from Merritt Avenue northward to Alley No. 187. This closure has been requested by Jon Kemp, an adjacent property owner. This section of right-of-way is no longer needed by the Metropolitan Government. All affected property owners have consented to the proposed right-of-way abandonment. The ordinance also abandons all utility easements.

This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2013-418 (HUNT & CLAIBORNE) – This zoning text change makes a number of changes pertaining to automobile related uses and sign requirements. Primarily, the ordinance would repeal the zoning code provisions requiring various automotive uses in commercial areas to be approved individually by the council as part of a specific plan (SP) district. Rather, such uses would be permitted with conditions (PC). In 2006, the council amended the zoning code to prohibit automotive uses such as automobile repair, service, and used car sales, as well as car washes and wrecker services, from being located in the commercial zoning districts (CS and CA). Car washes were a use permitted with conditions before the 2006 change to SP, while the other uses were permitted by right. The intent of the SP requirement was to give the council more control over the location of automotive-related uses. There are no set conditions included in the code applicable to these uses countywide. The conditions applicable to these facilities, if any, are presumably to be included in the individual SP plan itself.

(continued on next page)

ORDINANCE NO. BL2013-418 (continued)

Based upon the council office's calculation at the time, the 2006 ordinance requiring these facilities to be part of a SP district created more than 500 nonconforming uses. In addition, the ordinance distinguished among used car sales and new car sales. The sale of new cars is permitted by right in the commercial districts but used car sales must be part of a SP district. The council office cautioned against distinguishing among similar types of uses such as car sales, but this distinction was included in the bill approved by the council.

This ordinance deletes the SP requirement for automotive uses in commercial districts (primarily CS) in lieu of uniform conditions such establishments would have to satisfy. The proposed conditions for automobile repair; automobile sale, used; and vehicular sales and services, limited are as follows:

1. A physical separation between automobile display/parking areas and the right-of-way in the form of a wall or fence not to exceed 3 feet in height.
2. No chain link fencing could be erected within 25 feet of the right-of-way.
3. Service doors facing residential districts must be screened by a solid wall or opaque fence.
4. All buildings, vehicle storage, and repair must take place at least 25 feet from a residential district, and must be screened from residential districts.
5. Inoperable vehicles, outdoor storage, and auto repair activities must be located to the rear or side yard, and cannot be visible from the right-of-way.
6. No billboards or digital signs would be permitted on the property.

This ordinance re-inserts the previous specific conditions applicable to car washes, which include:

1. The same physical separation from the right-of-way as noted above.
2. Car wash structures must be at least 50 feet from a residential district.
3. All washing facilities must be within an enclosed structure, and must be separated from the adjacent property by a masonry wall between 6 and 8 feet in height.
4. Operating hours would be restricted to 8:00 a.m. to 10:00 p.m. if the facility is within 100 feet of a residential district.
5. No outdoor speakers would be allowed on the property.
6. No vehicles could be stored or offered for sale.
7. Billboards and digital signs would be prohibited.

This ordinance also adds vehicular rental/leasing as a PC use in the core frame (CF) district. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2013-419 (CLAIBORNE) – This zoning text change amends the bulk standards for single-family structures on lots containing less than the minimum required lot area. The residential and agricultural zoning districts are based upon lot size. For example, the RS10 district is for single-family dwellings on lots at least 10,000 square feet in size. However, it is common for there to be legally nonconforming lots within these zoning districts that do not meet the minimum lot size requirements, such as an 8,000 square foot lot that existed at the time the current zoning was approved. The zoning code currently provides that the side and rear setback requirements of the base zoning districts apply in such instances. This often results in long, narrow structures on these lots.

This ordinance would allow the bulk standards of the equivalent smaller zoning district to apply. In the case of an 8,000 square foot legally nonconforming lot in the RS10 district, the bulk standards of the RS7.5 district would apply. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2013-424 (DOWELL, MATTHEWS & OTHERS) – This ordinance approves a lease agreement between the Metropolitan Nashville public schools (MNPS) and the state on behalf of Nashville State Community College for the use of 6,596 square feet of space at 5248 Hickory Hollow Parkway for the Academy at Hickory Hollow. The Academy at Hickory Hollow is a program specifically to serve young adults that dropped out of high school in their senior year. The program enables these students to continue outside employment while working toward obtaining their high school diploma in a non-traditional school setting.

The Academy at Hickory Hollow has been using a portion of Nashville State’s Hickory Hollow site as a temporary location for the school while the permanent site was being completed. MNPS will be paying \$4,672.17 per month (\$56,066 per year) in rent for a term commencing March 1, 2013 and extending through March 1, 2017. Either party may terminate the lease at any time after June 30, 2014 with 180 days written notice. The state will be responsible for maintaining the property and for furnishing gas, water, sewer, and electricity.

This lease has been approved by the planning commission. Future amendments to the agreement may be approved by resolution.

ORDINANCE NO. BL2013-425 (S. DAVIS, CLAIBORNE & POTTS) – This ordinance approves a license agreement between HHKW Properties, LLC and Metro water services (MWS) to allow HHKW to construct a cross-access driveway. Metro owns property located at 805 Cowan Street that is utilized by MWS. HHKW owns properties located 801 and 811 Cowan Street, and desires the right to traverse the Metro property for vehicular and heavy machinery access to its commercial and industrial property. HHKW will be responsible for all construction costs associated with the cross-access drive, and will be required to maintain liability insurance protection naming Metro as additional insured. The agreement is for an indefinite term, but may be terminated by Metro at any time with 30 days written notice.

This agreement has been approved by the planning commission. Future amendments to the agreement may be approved by the council by resolution.

ORDINANCE NO. BL2013-426 (TODD, POTTS & CLAIBORNE) – This ordinance abandons 930 feet of an 8-inch sewer main and associated easements on five properties located at 4201, 4203 and 4208 Johnstone Court, and at 3801 and 3905 Hobbs Road. This ordinance has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2013-427 (MCGUIRE, CLAIBORNE & POTTS) – This ordinance abandons a utility and drainage easement retained when the former Alley No. 1706 right-of-way was abandoned by the council in 1995. The easement to be abandoned is on property located at 2708 Wortham Avenue. This ordinance has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2013-428 (MCGUIRE, CLAIBORNE & POTTS) – This ordinance abandons 115 feet of an existing 8-inch sewer main and associated easements, and accepts 94 feet of a new 8-inch sewer main on property located at 1 Burton Hills Boulevard. This ordinance has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2013-429 (TENPENNY, POTTS & CLAIBORNE) – This ordinance abandons 85 feet of an existing 8-inch sewer main and associated easements, and accepts 72 feet of a new 8-inch sewer main on property located at 100 Foothill Court. This ordinance has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2013-430 (LANGSTER) – This ordinance abandons a portion of the 28th Avenue right-of-way adjacent to properties located at 336, 337, 341, and 350 28th Avenue North. As a result of the construction of the new 28th Avenue Connector and realignment of 28th Avenue North, this portion of right-of-way is no longer needed. Easements will be retained by Metro water services until the water and sewer mains are relocated. This ordinance has been approved by the planning commission and referred to the traffic and parking commission.